



TOWN OF KNIGHTDALE

Land Use Review Board

7:00 pm

Monday, September 14, 2015

950 Steeple Square Court, Council Chambers

Knightdale, NC 27545

Minutes
Board of Adjustment

I. CALL TO ORDER

Chairman Pete Mangum ***called*** the meeting to order at 7:04 pm.

II. ROLL CALL

The following members were present:

QJ Members Present: Richy Narron, George Hess, Rita Blackmon, Stephen Morgan, Chuck Piratzky

QJ Alternates Present: Pete Mangum, Richard Godwin

Absent: Michael Blake, Alice Alexander

Staff Members Present: Jason Brown, Jennifer Currin, Donna Tierney, Matt Christian

Attorney Present: Beth Trahos, John Silverstein

Mr. Mangum called for nominations for an alternate QJ member. George Hess nominated Chuck Piratzky. Mr. Morgan seconded. The nomination was approved unanimously.

III. PUBLIC HEARINGS FOR QUASI-JUDICIAL CASES

A. VAR-1-15, 211 Southampton Drive

Mr. Brown explained to the Board of Adjustment that property owner David Villalobos applied for a variance to the Town of Knightdale Ordinance Section 9.7(A)(1) for the lot addressed 211 Southampton Drive, with the Wake County PIN 1754.17-22-0145. The applicant is requesting a variance to allow two driveway access points on a lot with less than 100' of frontage. The width of the applicant's property is 78 feet.

On July 27, 2015 Code Enforcement Officer Matt Christian received information about the driveway, but it had already been poured. Mr. Villalobos submitted his variance application on August 10. Norman York, the applicant's attorney questioned Mr. Brown as to when the driveway was poured. Mr. Brown confirmed the driveway was already poured or being poured when the violation was discovered.

Mr. York requested Kimberly Murray who resides at 209 Southampton Drive to speak before the Board. She testified that she does not have an issue with the driveway and believes the applicants are great people who are only trying to improve their yard.

Brenda Marshall who resides at 213 Southampton Drive also testified that the driveway was not an issue in her perspective. Having a horseshoe driveway provides enough space so the applicants no longer have to park their oversized truck and trailer on the grass.

Steve Sommerville was approved to translate for the property owners, Jessica Floro and David Villalobos. They stated that they looked at the Town's website to see if a permit was required but were not able to find anything in the affirmative. Ms. Floro stated that if they do not have the double driveway it is difficult to park Mr. Villalobos's large work truck. Before the driveway was augmented, the truck was parked on the grass which brought unsightly mud onto Southampton Drive. Mr. Villalobos further explained that he felt there was a safety issue previous to pouring the extra driveway. He was not able to see when backing out with his utility trailer because the house sits on a slight incline.

Mr. York shared the following observations with the Board. The hardship is parking the large utility trailer and truck. Mr. Villalobos had been running into neighbors' yards when trying to back into driveway. This is a detriment to curb appeal because it is making the road muddy and he was parking on the grass. Mr. York further explained there is a slight hill to the right of the applicants' house. A person coming over the hill may have his/her reaction time reduced without a clear view over the hill. He stated the applicants made a good faith effort to find out the regulations and comply with the Town's ordinance but were not able to locate what they needed. The driveway was already poured by the time the Town found out and the applicants discovered the requirements. Additionally, there is a school bus stop down the road and adding the additional driveway has increased safety by removing additional vehicles from the road.

Mr. Hess clarified with Mr. Silverstein on whether the condition for an unnecessary hardship was due to the property itself or the applicants' inability to adhere to the UDO. Mr. Silverstein explained the law states that the hardship must be with the property itself, not how it is used by particular individuals.

Mr. Piratzky stated that there could be an unnecessary hardship due to the topography of the property since there is limited sight to the driveway.

Ms. Blackmon questioned what would happen if the variance request was denied. It was stated that the applicant would have to work with the Town and probably close off one of the driveways.

...Mr. Morgan motioned to deny VAR-1-15 for 211 Southampton Drive. Mr. Narron seconded the motion. The motion passed 4:1 with Mr. Piratzky opposing the motion.

B. VAR-2-15, Village at Beaver Dam Setback

Mr. Brown explained to the Board of Adjustment that Beazer Homes, property owner, applied for a variance to the Town of Knightdale Ordinance Section 2.6 Note (g) for the lots addressed 408, 410, 412, 414, 416, and 418 Mt. Carmel Road. The applicant is requesting a variance to the front yard setback on the recorded plat of 30', specifically reducing the setback by 10' to 20'. The parcels are located at 408 Mt. Carmel Road (1755.03-22-3297), 410 Mt. Carmel Road (1755.03-22-4243), 412 Mt. Carmel Road (1755.03-22-4188), 414 Mt. Carmel Road (1755.03-22-5155), 416 Mt. Carmel Road (1755.03-22-6114), and 418 Mt. Carmel Road (1755.03-22-6184). The property owner is identified as Beazer Homes Corp, 4509 Creedmoor Road Suite 200, Raleigh, NC 27612. The current land use is vacant. The lots were recorded in 2015, are approximately 0.2 acres each,

contain part of a 30' greenway easement, and a portion of the lots are located in the 100 year floodplain.

Mr. Godwin asked how changing from a 30' setback to a 20' setback would affect parking. Mr. Brown responded that parking would not be an issue since there is already a 20' driveway depth requirement. Mr. Brown further explained that all the mentioned lots will require Floodplain permits.

Mr. Piratzky inquired if the master plan was approved prior to 2005 and if the sewer and greenway easements were shown on the master plan. Mr. Brown confirmed the date of approval and clarified that the greenway was not shown specifically and the sewer easement was generally shown.

Lacy Reaves, attorney for Beazer Homes, explained that Beazer Homes was not the original developer in Beaver Dam. A different developer went through the master plan process in 2005 but lost the project during the recession. Mr. Reaves further explained that a hardship was created as a result of the topography, the 50' Neuse River Buffer, 40' City of Raleigh sewer easement and greenway easement. Beazer Homes believes allowing homes to be placed 10' closer to the street and 10' away from the greenway would increase privacy for both homeowners and citizens. Mr. Reaves stated that the requested variance still achieves the intent and purpose of the UDO – securing public safety.

Mr. Olhman stated that Beazer Homes agreed though a UAA to build homes of a certain size and value. Due to the topography of the lots, the 10' back patios on each of the houses hang off an edge. He explained that allowing this variance will create a normal backyard for homeowners, will increase the homes' values, and create a much safer, better product for the Town and residents. In order to provide additional space for the front setback, the sidewalk has already been moved to the opposite side of the street.

Staff and Board received an exhibit showing the lot topography and proposed grading for 2 scenarios: with a 30' front setback and with a 20' front setback if permitted.

Discussion on the slope of the lots took place. There is a 45-degree difference between the front and rear slopes and the rear fall off would not be as severe if they are able to move the houses forward 10' on the lot. It was clarified that this is the natural topography of the land, and they have not graded. It was stated that not granting the variance would have adverse effect on the public and future homeowners.

Mr. Hess stated that the hardship is from the topography and not taken from any action of the applicant. He believes the variance request meets the spirit and intent of the Town's ordinance.

...Mr. Hess motioned to approve VAR-2-15 for the Village at Beaver Dam Setback. Mr. Narron seconded the motion. The motion passed 5-0.

Mr. Mangum called a recess at 8:12 p.m. The meeting was called back to order at 8:18 p.m.

C. VAR-3-15, Whitley Ridge Subdivision

Mr. Brown explained to the Board of Adjustment that Andrew Petesch, the property owner's attorney, applied for a variance on August 10, 2015 to the Town of Knightdale Ordinance Sections 2.2, 7.2(B), 7.3(C), 7.5(A), 7.5(E), 9.5 (G), 17.2, and 17.3(G)(3)(b) for the Whitley Ridge Subdivision, located North of the Knightdale Bypass (US 64/264/I-495) and east of the stub on Rider Drive. The applicant is requesting variances to required curb and gutter, sidewalk requirements, recreational open space requirements, connectivity index, and required roadway improvements. The parcel is located at 0 Rider Drive and is further identified by the Wake County PIN 1763.01-37-0021. The property owner is identified as Eastwind Development c/o Richard Stockett, 901-F Paverstone Court, Raleigh, NC 27615. The property measures 26.86 acres and is currently undeveloped.

Mr. Brown proceeded to explain the sections and conditions of the variances. Section 2.2 requires curb, gutter and 5' sidewalks on both sides of the street in the GR-8 Zoning District. The applicant is requesting variance to construct ribbon pavement, open swales, and a 6' multi-use path. Section 7.5(A)(1) requires half of the required open space to be improved as active open space. The applicant is requesting to not provide active open space, or an alternate. The applicant's alternate open space plan is to provide open space, but request a variance from Section 7.2(B) which requires centrally located open space and Section 7.5(E) which requires 50 feet of frontage on one public street. Additionally, they would like to reduce the required 20' greenway easement by 10'. Section 9.5(G) provides a connectivity index for street layout and requires a score of 1.40 in the GR-8 zoning district. The applicant is requesting to reduce the connectivity index 0.23 points to 1.17. Section 17.2 has a local street section that includes curb, gutter, and sidewalks along with a closed drainage system. If the applicant is granted a variance from Section 2.2, they would also need a variance from Sections 17.2 & 17.3 regarding the storm water collection system providing a swale instead of a closed system.

Mr. Petesch, the attorney representing Eastwind Development, presented an introduction to their variance request. He explained the variance was requested in order to develop an otherwise undevelopable parcel. The North Carolina Department of Transportation (DOT) shifted the path of the 64 Bypass to the west. Some land clearing in this parcel had already taken place before the DOT changed plans. Eastwind Development's idea is to blend the development of the parcel so that it matches the character of other nearby communities.

Developer Richard Stockett explained that they originally started the project in 1997. They had received all approvals from the State, Wake County, and DOT but decided to abandon the project when the DOT changed plans for the 64 Bypass. They instead started on the other side of the street which has access to community water and sewer. The parcel in question has no public water and sewer access due to location and the presence of wetlands.

Mr. Stockett communicated that an efficient layout is difficult due to the odd parcel shape. Additionally, building to the Town's street standards costs double that of building to DOT standards. With only 26 homes, it would be a burden on the HOA to maintain the current requirements of curb and gutter, 5 foot sidewalks and closed storm drainage.

Eric Thompson introduced himself as the engineer for Amber Ridge on the other side of the Bypass. He enumerated that the new development would have a community water system, each lot would be over .5 acres, roads were mostly put where bad soils were to maximize lot areas for

septic and that the State of North Carolina has already approved their community wells sites. Mr. Thompson shared his view that while curb and gutter looks nice, it concentrates flow. Open swales help filter the first flush (pollutants) and reduce nitrogen in the Neuse River Buffer. He confirmed that a storm water pond/basin would be required and Town of Knightdale stormwater requirements will be met.

Mr. Thompson next spoke about open space. From his calculations, 1.05 acres are required and they are providing 8.87 acres, however, the location of this space will not be centralized. Eastwind is able to provide 0.5 acres of active space. Mr. Thompson explained there are various options for access to the space which they plan to put near the community well. One option is a 10 foot driveway to get to the well, which will also be used for well maintenance. The other option is a mulched trail with railroad ties leading to the well since it is in the Neuse River Buffer.

Mr. Thompson explained the parcel's connectivity has 7 links and 6 nodes, and the index is 1.17. The required index is 1.4.

Mr. Morgan asked that the variance request for active open space be restated. Mr. Petesch explained they are first asking for a 100% variance, so there would be no requirement for active open space. In the alternative, they are asking to place the .52 areas of active space by the well. Furthermore, the request includes a variance from making the space a focal point in the subdivision. The reason for the request is to retain as much wooded area in the Neuse River Buffer area. The Board Members then discussed location of sidewalks and how/where they will connect.

Mr. Hess inquired about the multi-use path on the east side and if there was a reason one lot could not be designated as open active space other than the obvious loss of a developable lot. Mr. Thompson stated the straight answer is no, but they are still concerned about the burden on the HOA to maintain the space.

Mr. Morgan asked about anticipated traffic and speeds because people would be walking down roads without sidewalks. Mr. Piratzky also inquired if the Fire Marshall weighed in on the plans. Senior Planner Jennifer Currin explained the Fire Department had no comments at this time due to limited information on utilities. Mr. Thompson stated community wells do not require fire hydrants. Mr. Piratzky was further concerned about limited site access. Ms. Currin confirmed it meets the Town's required number of access points for the number of lots. Also, it would not necessarily be Town of Knightdale Fire Department responding to issues.

Mr. Petesch explained they are making an effort to put in some walkability in order to comply with the UDO as much as possible. There will be a 54' public right of way and an additional 10' on one side for the multi-use path. They are unsure at this point where it would be located, but their goal is as close to the street as possible. The HOA would maintain this path after development was complete.

Before the Board came to a conclusion, Ms. Currin wanted to clarify a couple of points. She stated the passive open space still needs to be improved. Land owned by the HOA or in the Neuse River Buffer does not automatically count toward passive open space. Ms. Currin also clarified that the applicant was requesting to provide 20' ribbon asphalt for the roadway instead of the required 22.'

Mr. Petesch apologized for accidentally mischaracterizing the open space being provided. Outside of what Eastwind Development has presented, they fully intend to comply with other Town regulations and the UDO. He further explained that an unnecessary hardship was created due to the particularities of the parcel, not by the applicant. Eastwind believes the spirit of the UDO is met in the way of preserving environmental and natural resources, and blending harmoniously with the existing community.

Jonathan May introduced himself as living at 5316 Rider Drive in Carriage Manor, which is adjacent to the neighborhood entrance. He explained that he does not feel the parcel is developable to the extent Eastwind wants to develop it. Mr. May would prefer the land be rezoned away from GR-8. He further shared that he feels what Eastwind Development is proposing does not fit with the existing neighborhood and will increase traffic along his street.

As a follow-up, Mr. Petesch explained that rezoning was Eastwind's first approach. Seeking a variance is their compromise to trying to preserve UDO components.

Mr. Mangum clarified with Board Attorney John Silverstein that Board Members could vote on individual variances or in their entirety. There was discussion between Mr. Silverstein and the Board Members regarding the requirement for the active and passive open space. It was decided to vote on the open space variance request separately and then on the rest of the requests together.

...Mr. Hess motioned to approve variance 7.5(A)(1) so long as the total required open space acreage is provided on-site. Mr. Piratzky seconded the motion. The motion passed 5-0.

...Mr. Hess motioned to approved variances 2.2, 7.2(B), 7.5(E), 9.5(G), 17.2 and 17.3(G)(3)(b). Mr. Piratzky seconded the motion. The motion passed 5-0.

...Mr. Mangum called to end the quasi-judicial portion of the meeting at 10:04 p.m.



Attest, Chairman of the Land Use Review Board, Pete Mangum



Clerk to the Land Use Review Board, Donna Tierney